

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

----- In the Matter of -----

PUBLIC UTILITIES COMMISSION

Instituting a Proceeding
To Investigate Performance-
Based Regulation.

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DOCKET NO. 2018-0088

ORDER NO. 35542

ADMITTING INTERVENORS AND PARTICIPANT AND
ESTABLISHING A SCHEDULE OF PROCEEDINGS

PUBLIC UTILITIES
COMMISSION

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ADMITTING INTERVENORS AND PARTICIPANT AND
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By this Order, the Public Utilities Commission ("commission") (1) grants intervenor status to CITY AND COUNTY OF HONOLULU ("City and County" or "City"); COUNTY OF MAUI ("COM"); COUNTY OF HAWAII ("COH"); BLUE PLANET FOUNDATION ("Blue Planet"); HAWAII PV COALITION ("HPVC"); HAWAII SOLAR ENERGY ASSOCIATION ("HSEA"); LIFE OF THE LAND ("LOL"); ULUPONO INITIATIVE ("Ulupono"); and DER COUNCIL OF HAWAII ("DERC"); (2) grants participant status to ADVANCED ENERGY ECONOMY INSTITUTE ("AEE Institute"); and (3) establishes a process design and procedural schedule to govern this proceeding.¹

¹The Parties to this proceeding are as follows: HAWAIIAN ELECTRIC COMPANY, INC. ("HECO"), HAWAII ELECTRIC LIGHT COMPANY, INC. ("HELCO"), MAUI ELECTRIC COMPANY, LIMITED ("MECO") (collectively "HECO Companies" or "Companies"); DIVISION OF CONSUMER ADVOCACY, DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS ("Consumer Advocate"), an ex officio party to this proceeding;

I.

BACKGROUND AND PROCEDURAL HISTORY

By Order No. 35411, issued on April 18, 2018 ("Opening Order"), the commission instituted a proceeding to investigate the economic, technical and policy issues associated with performance based regulation ("PBR") for the HECO Companies. The Opening Order, inter alia, indicated that "any interested individual, entity, agency, or community or business organization may file a motion to intervene or participate without intervention in this docket."² As provided in the Opening Order, motions were accepted through May 8, 2018.

Intervenors: City and County; COM; COH; Blue Planet; HPVC; HSEA; LOL; Ulupono; and DERC; and Participant: AEE Institute.

²Order No. 35411 at 57-58.

A motion to intervene or participate without intervention must have been filed not later than twenty days from the date of the Opening Order, pursuant to HAR § 6-61-57(3)(B). Motions to intervene or participate without intervention are required to comply with HAR Chapter 6-61, Rules of Practice and Procedure Before the Public Utilities Commission.

The following eight entities filed Motions to Intervene:
City and County;³ COM;⁴ COH;⁵ Blue Planet;⁶ HPVC;⁷ HSEA;⁸ LOL;⁹
and Ulupono.¹⁰

DERC filed a motion to either intervene or participate
in the proceeding.¹¹

³"City and County of Honolulu's Motion to Intervene; Affidavit of Roy K. Amemiya, Jr.; Certificate of Service," filed May 8, 2018 ("City's Motion to Intervene").

⁴"County of Maui's Motion to Intervene; Affidavit of Frederick H. Redell; and Certificate of Service," filed May 7, 2018 ("COM's Motion to Intervene").

⁵"County of Hawaii's Motion to Intervene; and Certificate of Service," filed May 8, 2018 ("COH's Motion to Intervene").

⁶"Blue Planet's Motion to Intervene; Memorandum in Support; Affidavit of Melissa Miyashiro; Attachment A; and Certificate of Service," filed May 8, 2018 ("Blue Planet's Motion to Intervene").

⁷"Motion to Intervene of the Hawaii PV Coalition; Affidavit of Mark Duda; Comments of the Hawaii PV Coalition; and Certificate of Service," filed May 8, 2018 ("HPVC's Motion to Intervene").

⁸"Hawaii Solar Energy Association's Motion for Intervention; Affidavit of William G. Giese; and Certificate of Service," filed May 8, 2018 ("HSEA's Motion to Intervene").

⁹"Life of the Land's Motion to Intervene; Affidavit of Henry Curtis; and Certificate of Service," filed May 2, 2018 ("LOL's Motion to Intervene").

¹⁰"Ulupono Initiative LLC's Motion to Intervene; Affidavit of E. Kyle Datta; Affidavit of Counsel; and Certificate of Service," filed May 8, 2018 ("Ulupono's Motion to Intervene").

¹¹"Distributed Energy Resources Council of Hawaii's Motion to Intervene of Participate in Proceeding and Certificate of Service," filed May 3, 2018 ("DERC's Motion to Intervene").

The following two entities filed Motions to Participate without Intervention: AEE Institute;¹² and CLEAResult Consulting, Inc. ("CLEAResult").¹³

On May 10, 2018, CLEAResult filed a Motion to Withdraw its Motion of Participation Without Intervention.¹⁴

The Opening Order further "solicit[ed] movants, in their motions to intervene or participate, to include comments on both the potential scope of issues to be addressed, as well as the procedural process employed in this docket."¹⁵ Accordingly, the eleven entities that submitted Motions to Intervene or Participate Without Intervention provided notably consistent general comments on the scope and proposed process for the proceeding.

¹²"Motion to Participate Without Intervention of Advanced Energy Economy Institute," filed May 8, 2018 ("AEE Institute's Motion to Participate").

¹³"CLEAResult Consulting, Inc. Motion of Participation Without Intervention," filed May 7, 2018.

¹⁴"CLEAResult Consulting, Inc. Motion to Withdraw Motion of Participation Without Intervention," filed May 10, 2018 ("CLEAResult's Motion to Withdraw"). By this Order, the commission grants CLEAResult's Motion to Withdraw.

¹⁵Order No. 35411 at 58-59

II.

INITIAL MATTERS

A.

Motions to Intervene

The commission has received eight motions to intervene, two motions to participate without intervention, and one motion to either intervene or participate without intervention in this docket.¹⁶

1. City and County. The City and County states that it has a variety of interests in this proceeding, including the fact that it "is a ratepayer in multiple capacities: it owns and operates properties that are used for residential, commercial, and government purposes, including for direct public services."¹⁷ Furthermore, the City and County:

[O]perates a public transportation fleet that is becoming increasingly electrified, and is constructing the 20-mile fixed guideway system that will be powered by electricity, along with ancillary stations and development. In that capacity the [City and County] has an interest in ensuring that electricity remains affordable so that public transportation can be available and accessible to all residents, regardless of economic status.¹⁸

¹⁶The commission has also received a letter from Dan Suehiro dated May 7, 2018, requesting "approval to participate without intervention in this docket as an interested individual."

¹⁷City's Motion to Intervene at 3-6.

¹⁸City's Motion to Intervene at 3-6.

In addition, the City and County states that its right to intervene is also codified in the Revised Charter of the City and County of Honolulu 1973 (2017 Ed.), which articulates the City's manifest interest in energy efficiency, environmental protection and sustainability, and in that capacity, has an interest in ensuring that clean energy and energy efficiency measures are affordable, available, and supported.

The City and County explains that its interests may be impacted by the outcome of this docket for the following reasons, among others: changes to electricity rates directly affect the City's taxpayers, and may broadly affect the City's ability to respond to the needs of its citizenry, including the provision of affordable City services, equitable and available public transportation, and protection against the near- and longer-term effects of climate change.¹⁹

2. COM. COM states that it "has a responsibility for the economic welfare of its citizens and businesses."²⁰ COM explains that its interests may be impacted by the outcome of this docket for the following reasons, among others:

PBR may adversely affect [COM]'s economic welfare if not well-designed by compromising service, allow for gaming, and distributing more risk to the ratepayers. In addition, PBR

¹⁹City's Motion to Intervene at 6.

²⁰COM's Motion to Intervene at 6.

endeavors to address stranded costs. As such, this may have a lasting economic impact on the County and its citizens.

As the largest customer of [MECO], with electric bills in total estimated to be around \$30 million per year, the [COM] has a substantial financial interest in PBR and its associated costs through a change to revenue and incentive mechanisms for MECO. In particular, PBR is not one-size-fits-all and each of the islands served by MECO represent unique circumstances that all differ from the circumstances found on Oahu. As such, [COM] is uniquely positioned to address the economic welfare and financial interests of its citizens and resulting PBR should be distinguished by market size.²¹

3. COH. COH states that it has a variety of interests in this proceeding including:

- Serving and protecting the County's interests as the single largest customer of HELCO;
- Protecting the public's general interests and being responsible to the public regarding public health, welfare, and civil defense issues;
- Serving as a knowledgeable and active proponent in related electric utility dockets;
- Providing a perspective from the Island of Hawaii to protect residents who have, on average, lower-incomes than the state's population as a whole and who may bear a significant portion of risk and cost burden if performance-based regulation of HELCO is not carefully implemented.²²

²¹COM's Motion to Intervene at 6.

²²COH's Motion to Intervene at 4.

COH explains that its interests may be impacted by the outcome of this docket for the following reasons, among others:

The County Municipal Government is HELCO's single largest customer. The investigation into Performance-Based Regulation . . . will include fundamental issues of cost savings, cost sharing, and accountability for HELCO and its customers. As HELCO's largest customer, [COH] is directly interested in the economic issues in this docket.

[A] significant portion of [COH] residents are low-income and receive state and federal benefits. They grapple with the state's high cost of living, which includes some of the highest electricity rates in the country. As Performance-Based Regulation focuses in part on risk and cost sharing, [COH] is concerned with representing the interests of its low and middle-income residents during these important proceedings that could shape the future of energy services.²³

4. Blue Planet. Blue Planet states that its organizational mission is to "promote and accelerate Hawaii's expeditious transition away from fossil fuels and clear the path for 100% clean energy in Hawaii and beyond."²⁴ Blue Planet explains that it has "diligently engaged in previous dockets to reform the HECO Companies' incentives"²⁵ and notes that the commission has

²³COH's Motion to Intervene at 4-5.

²⁴Blue Planet's Motion to Intervene at 4.

²⁵Blue Planet's Motion to Intervene at 6.

deferred issues raised in previous dockets to this separate proceeding.

Blue Planet states that it is "again prepared to provide the expertise of Ronald Binz, former Chair of the Colorado Public Utilities Commission and Colorado Consumer Advocate, who has taken the lead in developing and supporting Blue Planet's recommendations in numerous consecutive proceedings dating back to Docket No. 2013-0141."²⁶

Blue Planet states that this proceeding will "fundamentally and directly affect the interests of Blue Planet and its board members, staff, and supporters in clean energy, a clean and healthful environment, and the swift transition from fossil fuels to clean energy."²⁷

5. HPVC. HPVC states that it is a professional trade association whose goals "are to promote the development of sound and fair energy policies that enhance Hawaii's energy security and promote environmental and economic sustainability in the state's energy sector."²⁸

²⁶Blue Planet's Motion to Intervene at 8.

²⁷Blue Planet's Motion to Intervene at 5.

²⁸HPVC's Motion to Intervene at 6.

HPVC further states that its member companies "have direct and substantial financial and property interests in this proceeding and specific expertise and experience that will inform and benefit the proceeding."²⁹

HPVC states: "The Commission's disposition of this proceeding will affect HPVC member companies' existing and future investments."³⁰ HPVC explains that its "members' business operations in Hawaii currently include planning, developing, installing, selling or leasing, and monitoring and maintaining distributed energy resources ("DER") for customers that want to invest in onsite generation . . . HPVC members have a vested interest in both their existing customers and the 'broader, overarching objectives' identified in Order 35411, including incentivizing cost reduction; integrating technological advances, improving utility performance; encouraging a low-cost, customer-centric future; supporting new types of customer choice, and achieving broader policy goals that further the public interest in Hawaii."³¹

6. HSEA. HSEA states that it is a non-profit professional trade association with an organizational purpose "to

²⁹HPVC's Motion to Intervene at 7.

³⁰HPVC's Motion to Intervene at 12.

³¹HPVC's Motion to Intervene at 10-11.

promote the utilization and commercialization of renewable energy resources, including solar heating and cooling and solar electricity (photovoltaic, or 'PV') in the State of Hawaii, to advance consumer education and understanding of solar energy technologies, and to develop sound trade and technical practices among its member companies. HSEA currently has 86 member companies, the majority of which are Hawaii based, owned, and operated, making it the primary organization representative of the interest of Hawaii's indigenous solar industry."³²

HSEA states that "any policy that 'may represent substantial material changes to the current regulatory framework' also substantially impacts HSEA member companies and their interests."³³ HSEA states that it supported the Ratepayer Protection Act.³⁴

7. LOL. LOL states that it is a non-profit Hawaii-based organization that has "an interest in and has raised issues including climate impacts, cost, cultural impacts, economic diversification, environmental impacts, externalities, geographic

³²HSEA's Motion to Intervene at 1.

³³HSEA's Motion to Intervene at 10.

³⁴HSEA's Motion to Intervene at 10 (referring to 2018 Haw. Sess. Laws, Act 005; S.B. 2939, 29th Leg. (Haw. 2018) ("Act 5" or "Ratepayer Protection Act")).

concentration, environmental justice, low income impacts, socioeconomic impacts, thermal emissions, balance of trade impacts, and toxic releases."³⁵

Acknowledging that the Consumer Advocate "is bound by the law to represent the interests of the general public, that is, the consumers of utility services[,]" LOL contends that its interests "differ from that of the broader general public because LOL is concerned with overall justice, equality, externalities, environmental justice, climate justice, social, environmental, climatic and greenhouse gas impacts associated with energy policy."³⁶

8. Ulupono. Ulupono states that it is "a private, for-profit impact investment firm focused not only on renewable energy but also locally-sourced agriculture, as well as water and waste. In addition, [Ulupono] is an energy policy advocate seeking to advance identified policy objectives in processes and settings that may, at times, be adverse to the positions of the HECO Companies."³⁷

³⁵LOL's Motion to Intervene at 14.

³⁶LOL's Motion to Intervene at 17.

³⁷Ulupono's Motion to Intervene at 18.

Ulupono states that its interests are "fundamentally different from those of the HECO Companies and the Consumer Advocate insofar as it is an impact investor in the areas of energy and agriculture, dedicated to improving the quality of life for Hawaii residents by promoting more renewable energy, more locally produced food, and less waste."³⁸

Ulupono states that "the effect of pending orders in this proceeding are expected to materially impact [Ulupono's] interests, either favorably or unfavorably, thus supporting intervention by [Ulupono] in this PBR investigation."³⁹

9. DERC. DERC states that it is "an organization dedicated to promoting the use of DER to contribute to a more cost-effective, reliable, and environmentally friendly energy system for Hawaii."⁴⁰ DERC states that the issues associated with PBR "will have a substantial impact on the property, financial, and economic interests of [DERC] members."⁴¹ DERC asserts that the outcomes of the instant proceeding "will have a substantial impact on the business models of [DERC's] members, and on both the products and services currently available from [DERC] members as

³⁸Ulupono's Motion to Intervene at 18.

³⁹Ulupono's Motion to Intervene at 17.

⁴⁰DERC's Motion to Intervene at 2.

⁴¹DERC's Motion to Intervene at 4.

well as those currently under research and design."⁴² Thus, DERC states that it "has a keen interest in the technical, economic, policy and regulatory issues that will be addressed in the development and review of PBR."⁴³

10. AEE Institute. AEE Institute is a 501(c)(3) charitable organization whose mission is to:

raise awareness of the public benefits and opportunities of advanced energy. AEE Institute provides critical data and thought leadership to drive the policy discussion on key issues through commissioned research and reports, the provision of educational, issue-based content, and convenings where leaders can address energy challenges and opportunities facing the United States.⁴⁴

AEE Institute is affiliated with Advanced Energy Economy, a 501(c)(6) national association of businesses, representing leaders in the advanced energy industry and is dedicated to transforming public policy to enable a prosperous world that runs on clean, secure, affordable energy.⁴⁵

AEE Institute states that it has "commissioned research, prepared reports, facilitated working groups and filed comments in

⁴²DERC's Motion to Intervene at 4.

⁴³DERC's Motion to Intervene at 4.

⁴⁴AEE Institute's Motion to Participate at 2-3.

⁴⁵AEE Institute's Motion to Participate at 2-3.

other jurisdictions directly on PBR and related issues."⁴⁶ AEE Institute states that it has "a keen interest in the outcome of this proceeding and in ensuring that the [c]ommission has robust participation from a diversity of stakeholders" because "Hawaii is one of the first states to look comprehensively at PBR."⁴⁷

11. CLEAResult. On May 10, 2018, CLEAResult, filed a Motion to Withdraw its Motion of Participation Without Intervention.

12. Dan Suehiro. The commission received a letter, dated May 7, 2018, from Dan Suehiro, that requested "[c]ommission approval to participate without intervention in this docket as an interested individual."⁴⁸ On May 21, 2018, Dan Suehiro submitted another letter in which he acknowledged "not following the proper protocol in requesting [c]ommission approval to participate without intervention in this docket as an interested individual."⁴⁹

⁴⁶AEE Institute's Motion to Participate at 3.

⁴⁷AEE Institute's Motion to Participate at 3.

⁴⁸Letter To: Commission From: Dan Suehiro, "Docket No. 2018-0088 - Instituting a Proceeding to Investigate Performance-Based Regulation," filed May 8, 2018.

⁴⁹Letter To: Commission From: Dan Suehiro, "Docket No. 2018-0088 - Instituting a Proceeding to Investigate Performance-Based Regulation," filed May 21, 2018 ("Suehiro May 21 Letter").

Mr. Suehiro further stated that he is "volunteering to participate in this endeavor without compensation due to [his] interest in the energy industry in Hawaii having retired from [HECO] and after 31 years of experience in power generation, wind farm operation under Hawaiian Electric Renewable Systems, generation planning, IRP and other duties at HECO."⁵⁰ In addition, Mr. Suehiro states his objective for participation "would be to help identify the major metrics to be used in PBR" and indicates that he "would not object to denial of [his] application for participation without intervention due to the lack of proper information with [his] original request."⁵¹

B.

Regulatory Requirements

1.

Intervention

Intervention in a commission proceeding is governed by HAR § 6-61-55, which provides, in relevant part:

- (a) A person may make an application to intervene and become a party by filing a timely written motion in accordance with sections 6-61-15 to 6-61-24, section 6-61-41, and section 6-61-57, stating the facts and reasons for the proposed

⁵⁰Suehiro May 21 Letter at 1.

⁵¹Suehiro May 21 Letter at 1.

intervention and the position and interest of the applicant.

(b) The motion shall make reference to:

- (1) The nature of the applicant's statutory or other right to participate in the hearing;
- (2) The nature and extent of the applicant's property, financial, and other interest in the pending matter;
- (3) The effect of the pending order as to the applicant's interest;
- (4) The other means available whereby the applicant's interest may be protected;
- (5) The extent to which the applicant's interest will not be represented by existing parties;
- (6) The extent to which the applicant's participation can assist in the development of a sound record; and
- (7) The extent to which the applicant's participation will broaden the issues or delay the proceeding;
- (8) The extent to which the applicant's interest in the proceeding differs from that of the general public; and
- (9) Whether the applicant's position is in support of or in opposition to the relief sought.

HAR § 6-61-55(d) further states that "[i]ntervention shall not be granted except on allegations which are reasonably pertinent to and do not unreasonably broaden the issues already

presented." Moreover, intervention "is not a matter of right but is a matter resting within the sound discretion of the commission."⁵²

2.

Participation Without Intervention

The requirements for participation without intervention in commission proceedings are set forth in HAR § 6-61-56. Similar to the requirements for intervention in HAR § 6-61-55, HAR § 6-61-56 provides in relevant part:

- (b) A person who has a limited interest in a proceeding may make an application to participate without intervention by filing a timely written motion in accordance with sections 6-61-15 to 6-61-24, section 6-61-41, and section 6-61-57.
- (c) The motion shall provide:
 - (1) A clear and concise statement of the direct and substantial interest of the applicant;
 - (2) The applicant's position regarding the matter in controversy;
 - (3) The extent to which the participation will not broaden the issues or delay the proceeding;

⁵²In re Hawaiian Elec. Co., Inc., 56 Haw. 260, 262, 535 P.2d 1102, 1104 (1975).

- (4) The extent to which the applicant's interest will not be represented by existing parties;
- (5) A statement of the expertise, knowledge or experience the applicant possesses with regard to the matter in controversy;
- (6) Whether the applicant can aid the commission by submitting an affirmative case; and
- (7) A statement of the relief desired.

Moreover, regarding the extent to which a participant may be involved in a proceeding, HAR § 6-61-56(a) provides:

The commission may permit participation without intervention. A person or entity on whose behalf an appearance is entered in this manner is not a party to the proceeding and may participate in the proceeding only to the degree ordered by the commission. The extent to which a participant may be involved in the proceeding shall be determined in the order granting participation or in the prehearing order.

C.

Commission Rulings

The commission has, in the past, granted intervention in investigatory and policy proceedings.⁵³ The commission finds it

⁵³See, e.g., In re Public Util. Comm'n, Docket No. 2014-0192, Order No. 32737, "Granting Motions to Intervene, Consolidating and Incorporating Related Dockets, and Establishing Statement of Issues and Procedural Schedule," filed March 31, 2015, at 23, 46; In re Application of Hawaiian Elec. Co., Inc., 56 Haw. 260, 262-263, 535 P.2d 1102, 1104 (1975).

appropriate to adopt such an approach in this docket as well. Each potential intervenor has addressed the requirements of HAR § 6-61-55, and, importantly, has categorically stated it has significant interest or expertise with respect to PBR issues, or that it will retain consultants that have such expertise.

Based on these assertions and upon careful review of the record, and having given due consideration to the arguments advanced, the commission grants intervention to: (1) City and County; (2) COM; (3) COH; (4) Blue Planet; (5) HPVC;⁵⁴ (6) HSEA; (7) LOL; (8) Ulupono; and (9) DERC.

In addition, upon careful review of the record, and having given due consideration to the arguments advanced, the commission grants participation to AEE Institute.

With respect to Dan Suehiro's request to participate as an interested individual, as conceded in his letter dated

⁵⁴The commission observes that the HECO Companies have noted "that counsel for HPVC does not appear to be in compliance with Rule 1.9 of the Rule of the Supreme Court of the State of Hawaii pertaining to the requirements for pro hac vice appearance of counsel." See "Hawaiian Electric Companies' Response to Motion to Intervene of the Hawaii PV Coalition, and Motion to Participate Without Intervention of Advanced Energy Economy Institute," filed May 15, 2018, at 1. Notwithstanding the Companies' comments, given the applicable language of HAR § 6-61-12, which governs appearance before the commission, an attorney who is not authorized to practice law in the State is only required to associate with local counsel when the matter in question is a contested case proceeding. As the instant docket is an investigative proceeding, counsel for HPVC need not adhere to the requirements for pro hac vice appearance of counsel, unless otherwise ordered by the commission.

May 21, 2018, his request fails to comply with or meet the burden imposed by HAR §§ 6-61-55 or 6-61-56. The commission construes Mr. Suehiro's letter dated May 7, 2018 as a motion for participation without intervention and denies the motion.

That said, the commission acknowledges that, based on the representations made in the May 21, 2018 letter, Mr. Suehiro may provide some valuable insight and help build a sound record in the instant proceeding. Accordingly, although Mr. Suehiro's motion for participation without intervention in this docket is denied, the commission encourages Mr. Suehiro to continue to participate in this proceeding as an interested individual through public comments.

The commission cautions the Intervenors and Participant permitted herein that their participation will be limited to the issues established by the commission in this docket. Moreover, the commission reminds all Parties⁵⁵ it is imperative that participation in this docket meet a high standard of quality, relevance, and timeliness. Finally, the commission observes that it will preclude any attempts to broaden the issues or to unduly delay the proceeding. The commission will reconsider an Intervenor's or Participant's participation in this docket if, at

⁵⁵Unless otherwise indicated, the term "Parties," as used in this Order, means the HECO Companies, the Consumer Advocate, the Intervenors and Participant.

any time during the course of this proceeding, the commission determines that any Intervenor or Participant is attempting to unreasonably broaden the pertinent issues established by the commission in this docket, is unduly delaying the proceeding, or is failing to meaningfully participate and assist the commission in the development of a record in this docket.

III.

PARTIES' COMMENTS

A.

Comments on Preliminary Scope

The following summaries focus on the feedback expressed by prospective intervenors/participants regarding the commission's proposed preliminary scope for this proceeding.

1. Consumer Advocate. The Consumer Advocate offers several comments on the scope of this proceeding. The Consumer Advocate emphasizes that Performance Incentive Mechanisms ("PIMs") and PBR should not reward business as usual operations. The Consumer Advocate does not think that it is reasonable or necessary to make the utility's financial health or

high credit rating an objective or goal in this proceeding.⁵⁶ The Consumer Advocate states:

While both are desirable to underpin efforts to obtain reasonably priced capital to support the needed infrastructure investments, making the utility's financial health an explicit objective may create unreasonable tension with other objectives, such as affordable rates.⁵⁷

The Consumer Advocate provides additional goals and objectives for the six following topic areas:

- Grid Resilience and Safety
- Equitable Customer Empowerment
- Data Collection and Availability
- Planning and Procurement Processes
- Incentives for Accelerated Deployment of Cost Effective Non-Fossil Alternatives⁵⁸

The Consumer Advocate believes that including grid resilience as an objective or goal should be a requirement.⁵⁹ The Consumer Advocate also underscores the importance of ensuring that PIMs and PBR mechanisms are equitable.

⁵⁶"Division of Consumer Advocacy's Comments on Preliminary Scope and Proposed Process," filed May 8, 2018 ("Consumer Advocate's Comments") at 10.

⁵⁷Consumer Advocate's Comments at 11.

⁵⁸Consumer Advocate's Comments at 14-18.

⁵⁹Consumer Advocate's Comments at 14.

In addition, the Consumer Advocate discusses the importance of cost-effective data sharing as the current system transitions to a more market-based model involving many potential suppliers of generation and ancillary services. The Consumer Advocate maintains that this transition "may result in increased demand from potential third-party entities for appropriately aggregated and 'scrubbed' utility data to inform their product development and marketing efforts."⁶⁰ The Consumer Advocate believes that it would be appropriate to "establish performance incentives surrounding the provision of such data but that this must be coupled with the appropriate pricing so that the utility's efforts to provide data products to third-parties is not at customers' expense."⁶¹ The Consumer Advocate also suggests that cybersecurity be a possible goal or objective when dealing with data in this proceeding.⁶²

For planning and procurement processes, the Consumer Advocate suggests that it would be worthwhile to investigate the possibility of establishing metrics and PIMs to incent improved planning and resource procurement. The

⁶⁰Consumer Advocate's Comments at 16.

⁶¹Consumer Advocate's Comments at 16.

⁶²Consumer Advocate's Comments at 16.

Consumer Advocate also recommends that in addition to examining how to incent quality, timely, and cost-effective interconnection of non-utility renewable energy sources, this proceeding should also focus on the integration of additional non-fossil resources such as demand response and energy efficiency resources.⁶³

2. City and County. The City and County suggests the following additional areas for exploration: "market breadth and diversification; interconnection and deployment of distributed energy resources and other grid-service options; grid modernization; community engagement and transparency; data access; greenhouse gas reduction; and resilience."⁶⁴

3. COM. COM recommends that the following topics be addressed during Phase 1 of the proceeding:

- The risk of curtailment of one resource over another and its cost being allocated to ratepayers and the associated performance metrics for the utility;
- The inclusion of performance of Independent Power Producers and their associated performance as contracted through and by the utility and the associated performance metrics for the utility;
- The proper allocation of stranded cost to all parties connected to the electric grid or that have or will disconnect from the electric grid economically or physically;

⁶³Consumer Advocate's Comments at 18.

⁶⁴City's Motion to Intervene at 10-11.

- And the proper identification of delivery network upgrades, reliability network upgrades, and other interconnection costs that would be attributed to an Independent Power Producer or distributed energy resource participant and its differentiation from general grid upgrades and the associated performance metrics for the utility and proper recovery mechanisms for each.⁶⁵

4. COH. COH maintains that the PBR mechanisms that demonstrate the most immediate financial benefit for customers "should be adopted first."⁶⁶ COH also poses the following questions:

- What is the interplay/potential intermodal benefit or detriment of adopting certain PBR mechanisms in tandem or sequentially?
- What is the effect of adopting PBRs while cost of service regulation is still in place?
- What should be the timeframe for transitioning from cost of service regulation to PBR?
- How often should PBRs be reviewed and altered, and how can best practices, as developed in other locales, be incorporated in a timely fashion going forward?⁶⁷

COH emphasizes the importance of assessing potential unintended consequences of PBR mechanisms. COH believes that there

⁶⁵COM's Motion to Intervene at 3-4.

⁶⁶COH's Motion to Intervene at 9-10.

⁶⁷COH's Motion to Intervene at 9.

should be some discussion about whether certain PBR mechanisms should be island or utility-specific or applied across the entire State.⁶⁸

COH also suggests that PBR mechanisms could be used to "enhance the ability of HECO customers to provide their own energy [and] promote the creation of a market for energy services."⁶⁹

COH discusses the importance of establishing mechanisms that promote greater reliability and customer service. COH recommends that the commission consider "the degree to which PBRs and other rate elements can minimize, ameliorate or even obviate stranded costs."⁷⁰

COH also submits that microgrid development could be taken into consideration in this proceeding.⁷¹

5. Ulupono. Ulupono proposes that one of the general objectives of this proceeding should be that the PBR cost recovery approach allows the utility to attract capital, from the debt and equity capital markets, at a reasonable cost.⁷² Ulupono suggests that "it will be necessary to gain a clear understanding of the

⁶⁸COH's Motion to Intervene at 9.

⁶⁹COH's Motion to Intervene at 12.

⁷⁰COH's Motion to Intervene at 13.

⁷¹COH's Motion to Intervene at 13.

⁷²Ulupono's Motion to Intervene at 22.

utility's cost of equity and debt" and that "[t]his may be best achieved by relying on the output from the current rate case as a baseline."⁷³

Ulupono recommends that Phase 1 include "an effort to identify and describe a range or spectrum of actual and potential roles the utility may play now and in the future."⁷⁴ Ulupono maintains that this process could result in the identification of "approximately four to six utility business models"⁷⁵ and an understanding of how performance metrics and incentives relate to different business models. Ulupono further suggests:

[T]he foregoing assessment should include a focused evaluation of whether and to what extent the performance measures and incentives considered for a particular utility business model (within the spectrum or range) do or do not properly and sufficiently support capital formation at three related levels: the utility level, the independent power producer level, and the level of the consumer along with its distributed services providers.⁷⁶

⁷³Ulupono's Motion to Intervene at 25.

⁷⁴Ulupono's Motion to Intervene at 24.

⁷⁵Ulupono's Motion to Intervene at 24.

⁷⁶Ulupono's Motion to Intervene at 25.

Ulupono discusses the importance of flexibility and how the performance priorities and metrics should be adjusted as the utility's role evolves.⁷⁷

For Phase 2, Ulupono raises the question of whether the commission should consider "metrics that may fall outside of the metrics typically associated with the role of an integrated utility, including but not limited to providing distribution system platform services."⁷⁸ Ulupono also suggests the commission consider electrification of transportation goals, compliance with greenhouse gas emissions reduction requirements, and climate resilience objectives.⁷⁹

To determine the impacts that performance measures may have on shareholder value and the cost of capital, Ulupono recommends that Phase 2 include a step to test the portfolio of performance measures that were developed during Phase 1 and that a standardized forecast using the rate case test year as a possible baseline could assist in this step.⁸⁰

6. DERC. DERC supports the proposed scope discussed in the Opening Order, and indicates that it has "no intent

⁷⁷Ulupono's Motion to Intervene at 25.

⁷⁸Ulupono's Motion to Intervene at 29.

⁷⁹Ulupono's Motion to Intervene at 29.

⁸⁰Ulupono's Motion to Intervene at 29.

of broadening the [c]ommission's anticipated scope of this proceeding."⁸¹

7. HPVC. HPVC recommends that several additional topics be included in the scope of Phase 1 and Phase 2 of the proceeding. For Phase 1 of the proceeding, HPVC emphasizes the importance of assessing the role and function of the utility verses those that can be provided by third parties through the competitive marketplace.⁸² HPVC states:

Including in the scope of Phase 1 issues the role of the utility will provide an important lens through which to identify additional issues necessary for successful implementation of PBR, including the appropriate security and data sharing protocols to ensure that utility data is available to those third-party partners.

Building on the proposed investigation into the current regulatory framework, HPVC also encourages the [c]ommission to include in the scope of issues for Phase 1, consideration of whether to develop in Phase 2 separate PBR frameworks for the utility generation function vs. the utility transmission and distribution functions. Separate PBR treatment of these functions could better align the utility monopoly function with modern technological and market realities and help to foster a more efficient transition to PBR.⁸³

⁸¹DERC's Motion to Intervene at 3.

⁸²HPVC's Motion to Intervene, Comments at 6.

⁸³HPVC's Motion to Intervene, Comments at 8.

For Phase 2, HPVC recommends that "design and implementation issues include DER-based metrics as a topic area for developing performance incentives and other PBR elements."⁸⁴ More specifically, HPVC suggests that PBR design elements could include the following considerations:

- Improvements to the timeliness and reduction of costs for DER interconnection;
- Integration of cost-effective DER-based solutions, such as "non-wires alternatives" to traditional utility capital investments in distribution or transmission infrastructure; and
- Leveraging customer-sited DERs to provide energy, capacity, and ancillary services to meet grid needs through innovative partnerships with non-utility providers, such as opportunities available through DER aggregation.⁸⁵

8. HSEA. HSEA does not make any specific recommendations on the scope of this proceeding, other than to suggest that the commission "continue to allow this proceeding the flexibility to remain receptive to future policy changes impacting its subject matter."⁸⁶

9. Blue Planet. Blue Planet suggests the following questions be added to the proposed topics for Phase 1:

⁸⁴HPVC's Motion to Intervene, Comments at 8.

⁸⁵HPVC's Motion to Intervene, Comments at 9.

⁸⁶HSEA's Motion to Intervene at 2-3.

- What incentives does [cost-of-service regulation ("COSR")] provide to regulated utilities?
- Does COSR provide incentives for utilities to be efficient as firms?
- Can performance incentives (PIMs, earnings sharing mechanisms, etc.) be effective in correcting any undesirable incentives provided by COSR?
- How can the basic structure of regulation be changed to reduce the undesirable effects of COSR?⁸⁷

Blue Planet also recommends that "the [c]ommission [] start looking ahead to possible fundamental changes to the current regulatory model and use the stakeholder workshops to explore such changes and the process that will be needed to develop and implement more fundamental changes."⁸⁸

For Phase 2, Blue Planet recommends that the commission assess "whether a different set of incentives or form of regulation should be applied to the utility's transmission and distribution function, compared to its generation function."⁸⁹

10. LOL. LOL suggests that metrics should be considered for the following topic areas: energy efficiency, reliability, resilience, customer animation, distributed generation,

⁸⁷Blue Planet's Motion to Intervene, Attachment A at 1-2.

⁸⁸Blue Planet's Motion to Intervene, Attachment A at 2-3.

⁸⁹Blue Planet's Motion to Intervene, Attachment A at 3.

electrification of transportation, transformation to a distribution platform, cyber-security, lifecycle greenhouse gas emissions, environmental justice, geographic diversity, and grid architecture. LOL also believes that all investor-owned utilities should be included in this proceeding, including the Gas Company.⁹⁰

11. AEE Institute. AEE Institute did not provide any comments on the proposed scope of this proceeding.⁹¹

B.

Comments on Proposed Process

1. Consumer Advocate. The Consumer Advocate maintains that having a facilitator or moderator for each workshop or conference could "significantly increase the productivity of workshops" and suggests that "parties and participants could be requested to provide contributions to offset the costs for a third-party facilitator."⁹²

The Consumer Advocate recommends that the schedule for this proceeding include more than two phases. The Consumer Advocate suggests that as part of Phase 2, the efficacy

⁹⁰LOL's Motion to Intervene at 3.

⁹¹AEE Institute's Motion to Intervene at 5-6.

⁹²Consumer Advocate's Comments at 10.

of any PIM or PBR should be evaluated and verified to ensure that unintended consequences are not occurring and that safety nets and/or off-ramp provisions should be used to avoid having significant adverse impacts on the customers.⁹³ The Consumer Advocate also recommends that evaluation and verification check points be included in subsequent phases of the proceeding to identify lessons learned and make any necessary modifications.⁹⁴

The Consumer Advocate notes the ambitious pace of the commission's proposed 21-month timeline and states that "it is reasonable to anticipate that Hawaii will need more than just 21 months to complete the process to design, deploy, and evaluate new PIMs and/or PBR."⁹⁵ The Consumer Advocate references Europe's RIIIO process and the New York REV process and notes that these proceedings have been underway for several years.⁹⁶

The Consumer Advocate discusses the need for metrics, data, and benchmarks as part of Phase 1 and argues that "if the identification of the metrics is delayed until Phase 2, the

⁹³Consumer Advocate's Comments at 10.

⁹⁴Consumer Advocate's Comments at 8.

⁹⁵Consumer Advocate's Comments at 8.

⁹⁶Consumer Advocate's Comments at 8.

deployment of any new PIMs or PBR will not be feasible."⁹⁷ The Consumer Advocate states:

[O]nce that data has been collected, the appropriate benchmarks will need to be established in order to determine whether the utilities have met, exceeded, or fell short of those benchmarks to determine whether there will be any reward or penalty.⁹⁸

2. City and County. The City and County did not offer comments on the proposed procedural schedule.⁹⁹

3. COM. COM recommends that Phase 1 identify other open commission proceedings that PBR may rely upon to ensure that other proceedings do not contradict the instant proceeding. COM further suggests "establishing the Hawaii Electricity Reliability Administrator set into law in 2012 . . . to establish and enforce interconnection and reliability standards."¹⁰⁰

4. COH. COH believes that stakeholders should be given the opportunity to communicate with leaders in jurisdictions that already have PBR such as New York, Minnesota, California, Ohio, Illinois, Rhode Island, and the United Kingdom. COH recommends that the commission invite leaders from these jurisdictions to

⁹⁷Consumer Advocate's Comments at 9.

⁹⁸Consumer Advocate's Comments at 10.

⁹⁹City's Motion to Intervene at 10-11.

¹⁰⁰COM's Motion to Intervene at 4.

participate in future docket workshops to allow better understanding about what has worked and what these jurisdictions would have done differently.¹⁰¹ COH also recommends that the commission consider a phased approach to the adoption of PBR since "a broad overhaul of the ratemaking regime in Hawaii from Cost of Service to Performance-Based Regulation would represent a seismic change, and if done too rapidly, could carry risks to ratepayers that should be avoided."¹⁰²

5. Ulupono. Ulupono suggests that in the beginning of the procedural schedule, parties should develop a "list of utility business models and concomitant roles."¹⁰³ Ulupono states that the policies introduced in Act 5 in combination with the established Bonbright¹⁰⁴ principles of rate design provides an example of the criteria to use for assessing performance metrics.¹⁰⁵ Ulupono recommends that the main outcomes of the technical workshop should

¹⁰¹COH's Motion to Intervene at 10.

¹⁰²COH's Motion to Intervene at 11.

¹⁰³Ulupono's Motion to Intervene at 26.

¹⁰⁴See J. Bonbright, A. Danielsen and D. Kamerschen, Principles of Public Utility Rates, Public Utilities Reports (1988). These principles have been summarized by the Edison Electric Institute as the following "Core Principles of Rate Design": economic efficiency, equity, revenue adequacy and stability, and bill stability.

¹⁰⁵Ulupono's Motion to Intervene at 27.

be to identify areas of agreement and disagreement and to map out the areas of performance that are "robust across various utility roles that may evolve from the current model."¹⁰⁶ Another step that Ulupono recommends is "defining the metrics for the areas of utility performance, how these metrics will be captured, who will capture them, and how they will be validated."¹⁰⁷ Ulupono believes that in addition to the opportunity for parties to file statements of position, the procedural schedule should also allow parties to file reply statements of position.¹⁰⁸

6. DERC. DERC supports the idea of conducting the investigation in two phases: Evaluation and Assessment and then Design and Implementation. DERC states that this proceeding should also include a discussion on "the consequences of not reaching agreed upon performance metrics"¹⁰⁹

7. HPVC. HPVC recommends that there be multiple technical working group sessions in both Phase 1 and Phase 2.¹¹⁰ HPVC suggests that commission staff develop a "whitepaper or straw proposal . . . to synthesize the current regulatory framework and

¹⁰⁶Ulupono's Motion to Intervene at 28.

¹⁰⁷Ulupono's Motion to Intervene at 28.

¹⁰⁸Ulupono's Motion to Intervene at 28.

¹⁰⁹DERC's Motion to Intervene at 3.

¹¹⁰HPVC's Motion to Intervene at 4.

those areas of utility performance identified through the stakeholder process"¹¹¹ and that stakeholders be given the opportunity to comment and offer suggestions on the staff report. HPVC recommends that commission staff then prepare a final report that addresses stakeholder feedback.¹¹²

8. HSEA. HSEA has no comments on either Phase 1 or Phase 2 of the Commission's proposed procedural schedule. HSEA emphasizes the importance of the timeline of proposed performance incentives and penalty mechanisms found in the Ratepayer Protection Act.¹¹³

9. Blue Planet. Blue Planet has no comments on the proposed procedural schedule, but provides recommendations for additional topics that should be included in the scope of the proceeding as summarized in the previous section.

10. LOL. LOL emphasizes the importance of establishing a standard set of definitions at the beginning of this proceeding so that all parties can have a consistent understanding of the issues in this proceeding.¹¹⁴

¹¹¹HPVC's Motion to Intervene at 4.

¹¹²HPVC's Motion to Intervene at 7.

¹¹³HSEA's Motion to Intervene at 4.

¹¹⁴LOL's Motion to Intervene at 3.

11. AEE Institute. AEE Institute points out how it may be difficult for some to participate in person during different parts of the proceeding and recommends that in addition to in-person meetings, stakeholders be given the opportunity to participate remotely through livestream technical conferences. This could allow stakeholders to listen-in or watch working group meetings. AEE Institute suggests that parties that are not able to attend meetings in-person should still be allowed to file written comments. AEE Institute believes that Phase 1 should be six months and Phase 2 should be fifteen months.¹¹⁵

IV.

SCOPE AND PROCESS

As set forth in the Opening Order, the commission seeks to examine revenue and incentive mechanisms that encourage exemplary utility performance, as well as PBR elements that may, over time, result in more fundamental changes to the regulatory framework.

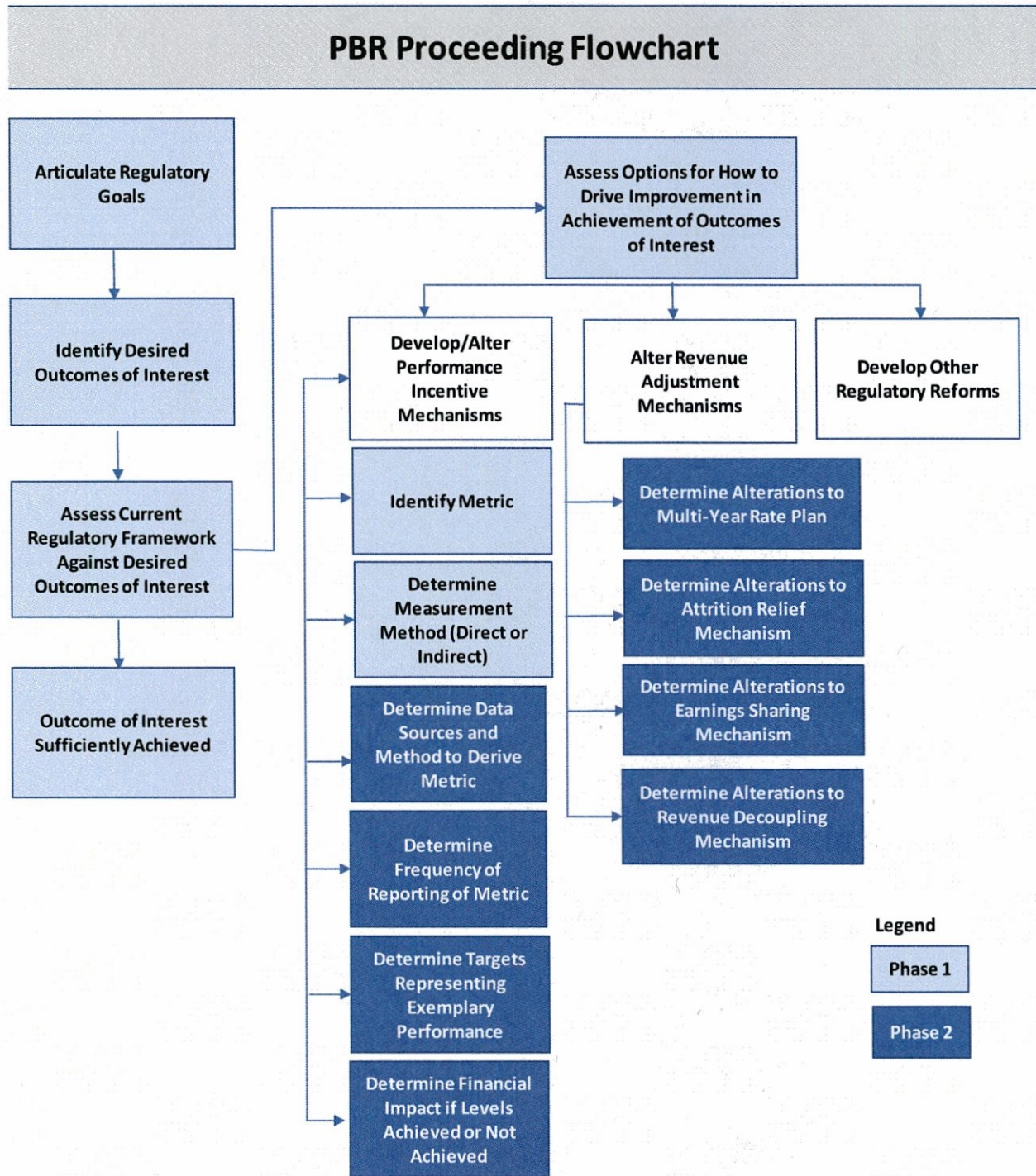
To help ensure a successful outcome, the commission has bifurcated the instant proceeding into two phases. Phase 1 of this docket will: (1) consider regulatory goals and outcomes to

¹¹⁵AEE Institute's Motion to Participate at 5-6.

inform a performance-based regulatory framework; (2) evaluate the current regulatory framework in Hawaii to examine which incentive mechanisms and regulatory components may not be functioning as intended or are no longer aligned with the public interest, and to identify specific areas of utility performance that should be targeted for improvement; (3) assess which regulatory mechanisms can best address the specific areas of interest; and (4) identify specific performance metrics, where appropriate.

In Phase 2, the commission intends to continue the collaborative process to: streamline and/or refine elements of the existing regulatory framework; develop incentive mechanisms to better address specific objectives or areas of utility performance; and implement other improvements to the regulatory framework that meet the goals and outcomes established in Phase 1.

Figure 1. PBR Proceeding Flowchart



The assessment of Hawaii's existing regulatory framework and the subsequent design and implementation of refinements or

modifications thereto will be a complex undertaking encompassing numerous decision points along the way. It is thus important to have a robust, yet flexible process in place. Accordingly, the commission intends to utilize a series of collaborative, facilitated technical workshops, each followed by focused briefs from the Parties, in order to focus objectives and advance the proceeding in an expeditious and productive manner.¹¹⁶ The commission notes that it has retained Rocky Mountain Institute ("RMI") to support the commission and staff throughout this proceeding. RMI will be present at each technical workshop to help facilitate productive and collaborative discussion.

The technical workshop series will begin by establishing a common foundation and analytical lens by which to view the existing regulatory framework and to inform the need for any modifications or refinements thereto.

Each step of the PBR Design Process is described in the section that follows. This approach has been adapted from the PBR literature for the broader scope of the present proceeding.¹¹⁷

¹¹⁶To the extent feasible, the commission intends to accommodate remote participation in the technical workshop series for Parties. In addition, a Party will still be able to file a brief even if said Party did not attend, in-person, the prior technical workshop. See AEE Institute's Motion to Participate at 5-6.

¹¹⁷This PBR Design Process is largely based on the process articulated in the Comments of the Office of the Attorney General

A.

Phase 1 - Evaluation and Assessment

Phase 1 of the instant proceeding will establish a foundation from which to implement modifications and/or refinements to the current regulatory framework in Phase 2.

First, the commission, in conjunction with the Parties, will identify regulatory goals and outcomes to serve as guiding principles and to ground an assessment of the regulatory framework.

Second, through the lens of regulatory goals and outcomes, the commission and Parties will assess which outcomes

of Minnesota, Residential Utilities and Antitrust Division ("OAG") to the Minnesota Public Utilities Commission. See In re Comm'n Investigation To Identify and Develop Performance Metrics and, Potentially, Incentives for Xcel Energy's Electric Utility Operations, Docket No. E-002/CI-17-401, Comments of the Office of the Attorney General, filed December 21, 2017 ("OAG's Comments"). The OAG's recommendations were, in turn, adapted from the Synapse Handbook. See Melissa Whited, Tim Woolf, and Alice Napoleon, Utility Performance Incentive Mechanisms: A Handbook for Regulators, Synapse Energy Economics, Inc., March 2015, available at http://www.synapse-energy.com/sites/default/files/Utility%20Performance%20Performance%20Incentive%20Mechanisms%2014-098_0.pdf ("Synapse Handbook"); see also Ken Costello, Nat'l Regulatory Research Inst., How Performance Measures Can Improve Regulation (June 2010); Sonia Aggarwal & Eddie Burgess, New Regulatory Models (Mar. 2014); David Littell, Camille Kadoch, Phil Baker, Ranjit Bhavirkar, Max Dupuy, Brenda Hausauer, Carl Linvill, Janine Migden-Ostrander, Jan Rosenow, Wang Xuan, Owen Zinaman, and Jeffrey Logan, Next-Generation Performance-Based Regulation: Emphasizing Utility Performance to Unleash Power Sector Innovation, Regulatory Assistance Project and National Renewable Energy Laboratory, September 2017 ("Littell et al., Next-Gen PBR Report"), available at <https://www.nrel.gov/docs/fy17osti/68512.pdf>.

are currently well-served by the regulatory framework and which require greater focus and examination.

Third, once a distilled subset of outcomes has been identified, the commission and Parties will determine which regulatory mechanisms are best-suited to successfully realize each outcome. In addition, where appropriate, the commission and Parties will articulate specific metrics to measure the utility's performance in achieving that particular outcome.

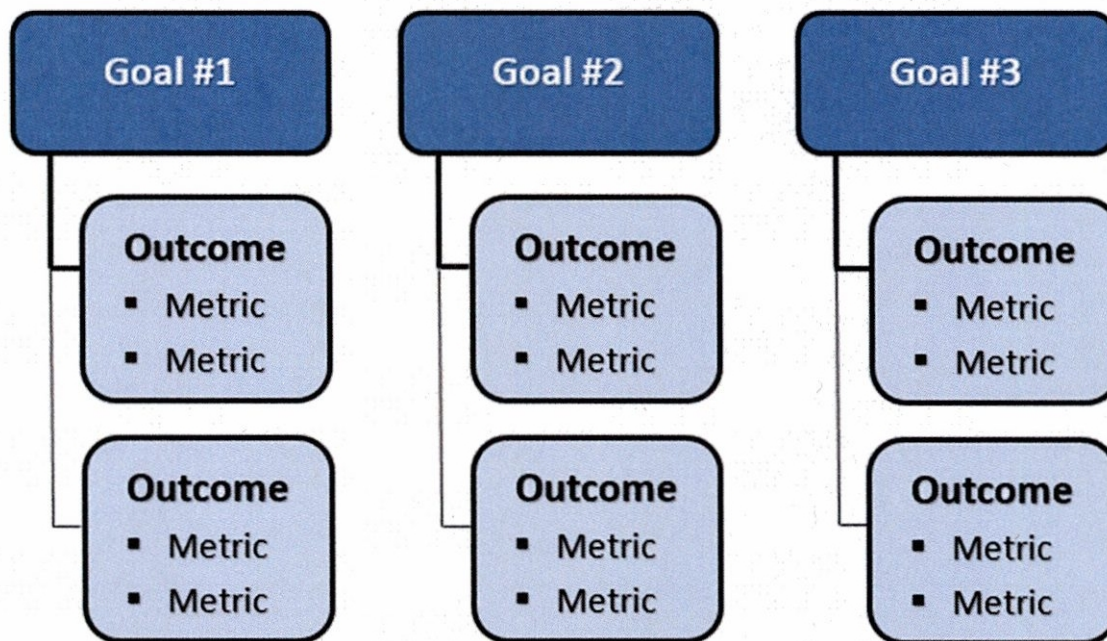
1.

Building a Foundational Goals-Outcomes Hierarchy

The first two steps of the PBR Design Process establish a hierarchy that can be used as a framework for the analysis itself. This two-level hierarchy begins at broad regulatory goals, which inform desired regulatory outcomes. As outlined in Section IV.A.3, below, the goals-outcomes hierarchy, in turn, informs possible performance metrics along a pathway toward PIM or

Scorecard¹¹⁸ development.¹¹⁹ This organization is visualized in the figure below.

Figure 2. Goals-Outcomes Hierarchy



The foundational hierarchy helps to transform broad regulatory goals, which are, by nature, high-level, into more specific regulatory outcomes. This two-level hierarchical approach provides a lens through which to evaluate whether the existing regulatory framework is adequately achieving desired

¹¹⁸Scorecard metrics permit the collection of information on utility performance or achievement of targets in specific areas compared to a peer group of other utilities. Typically, financial incentives are not initially linked to a scorecard, but scorecards can assist in defining baseline conditions and as a way to evaluate and measure changes to performance over time.

¹¹⁹The commission underscores that the development of PIMs is but one of three separately identified categories of PBR elements to be explored in this docket. The others include revenue adjustment mechanisms as well as other regulatory reforms.

regulatory outcomes. The ensuing assessment of the existing regulatory framework will, in turn, illuminate which specific areas of interest and/or utility performance warrant greater focus. Upon narrowing the scope of focus, the next step of the PBR Design Process is to evaluate which regulatory mechanisms are best-suited to address the specific areas of interest. These first four steps are described in greater detail below.

Step 1: Articulate regulatory policy goals. The first step of the process is to identify and articulate regulatory policy goals that the State wishes to achieve. Once identified, these goals can ultimately help to focus the identification and selection of potential metrics to track. These regulatory policy goals should be broadly defined while still providing sufficient certainty and flexibility.

Regulatory policy goals should be responsive to the fundamental reasons for utility regulation, which are necessarily informed by a utility's core obligations of service. In other words, utilities are obligated to meet certain goals that are important to regulators. These high-level goals form the top portion of the foundational goals-outcomes hierarchy.

This important first step in the PBR Design Process will allow the commission and Parties to give holistic consideration to the fundamental goals of regulation and then to affirmatively

declare the goals in this proceeding. After this step, the next task is to identify the desired regulatory outcomes.

Step 2: Identify Desired Regulatory Outcomes. Once the regulatory goals have been identified, the next step is to determine the desired outcomes of utility service. Outcomes describe "how utility services affect ratepayers and society."¹²⁰ These outcomes add specificity to the broader, aspirational regulatory goals.

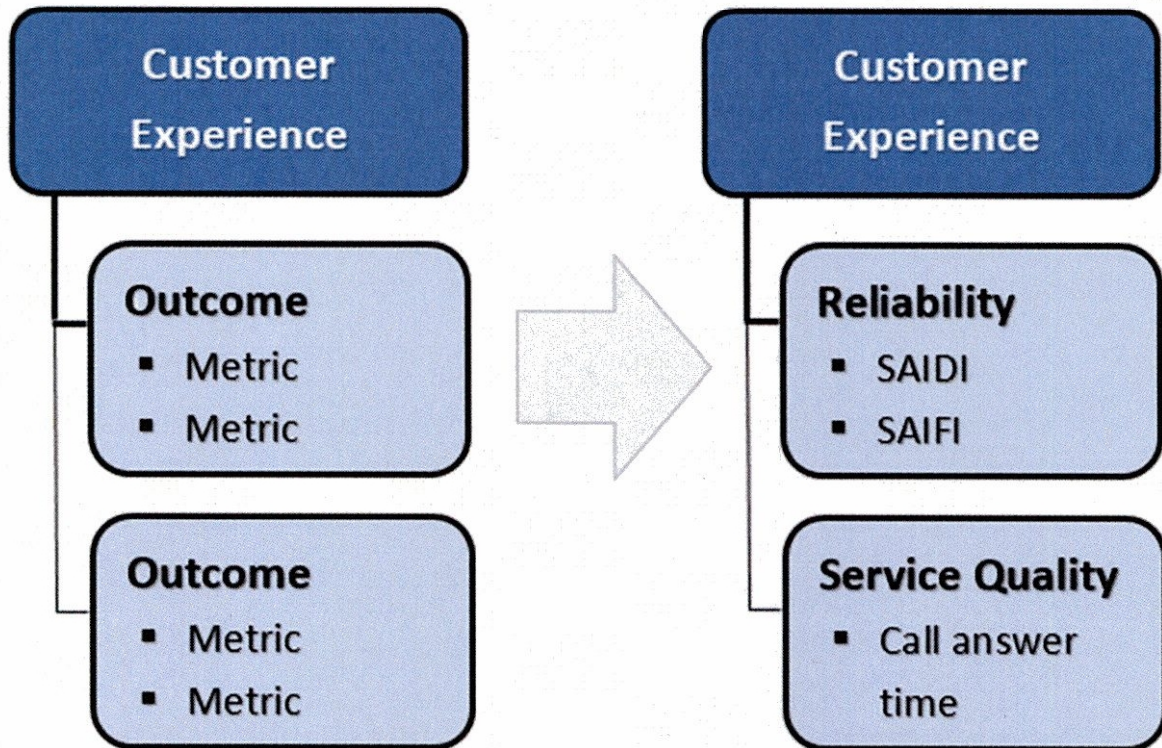
Identifying desired outcomes inherently requires an assessment of the existing regulatory structure and the incentives that are bound up in it. This can lead to deep insights into the core motivations of utilities. In particular, this assessment can identify functions that a utility should perform at a high level, and those that it may find difficult to accomplish. For example, a utility under cost-of-service regulation is incentivized to cut costs between rate cases.¹²¹ In general, an incentive to contain costs is beneficial. But utilities may be incentivized to cut costs in areas such as service quality and reliability, which would be harmful to customers. To avoid this harm, the commission has

¹²⁰Littell et al., Next-Gen PBR Report at 37.

¹²¹Since rates are based in part upon a utility's test year expenses, once final rates are implemented, a utility will be incentivized to cut costs to increase earnings.

identified service quality and reliability as desirable outcomes of regulation.¹²² Figure 3 illustrates the relationship between these outcomes and the broader regulatory goal of improving the customer experience.

Figure 3. Goals-Outcomes Hierarchy; Customer Experience



Service quality and reliability are well-established regulatory outcomes, but there are a number of other outcomes that may also be considered in this proceeding. Regulators across jurisdictions are beginning to focus attention on new aspects of

¹²²Docket No. 2013-0141, Order No. 35165, filed December 29, 2017, at 6; Docket No. 2013-0141, "Hawaiian Electric Companies Revised Performance Incentive Mechanism and Revenue Balancing Account Tariffs," filed January 11, 2018.

utility performance, such as overall system efficiency, use per customer, customer engagement, network support services, market transformation, and environmental and energy performance.¹²³ The foundational goals-outcome hierarchy is designed to accommodate these emerging and innovative regulatory outcomes, as they are compatible with the broader regulatory goals established in the previous step. For example, customer engagement is an outcome related to the regulatory goal of improving the customer experience (and possibly others).

There should also be a reassessment of existing regulatory tools and/or metrics, especially those related to the desired regulatory outcomes. For instance, there are a number of existing metrics for service quality and reliability. Gathering this information can yield insight into current utility performance and it can help the commission and the Parties take stock of how well the metrics themselves illuminate utility performance. This cataloging and assessment process occurs in Step 3 of the PBR Design Process.

¹²³Synapse Handbook at 19.

Regulatory Assessment

Step 3: Evaluate and Assess Current Regulatory Framework. Even as the identification of desired regulatory outcomes necessarily involves some level of assessment (as described above), Step 3 of the PBR Design Process involves a more explicit and deliberate analysis of the existing regulatory framework. Through the lens of identified regulatory outcomes, the current regulatory framework can be evaluated for relative effectiveness. Such analysis should illuminate which regulatory outcomes or specific areas of utility performance are currently well-served by the existing regulatory framework, as well as which specific areas of utility performance are currently not well-served.

This evaluation and assessment should yield a distilled and focused list of regulatory outcomes and/or areas of interest to be addressed further.

Step 4: Identify regulatory mechanism to best address each regulatory outcome. Having outlined a focused list of regulatory outcomes and areas of specific utility performance to be addressed, Step 4 examines which regulatory mechanisms are best-suited to effectively achieve each desired outcome. This regulatory mechanism assessment should result in the grouping of regulatory outcomes into one or more of three PBR element pathways:

(1) PIMs; (2) Revenue Adjustment Mechanisms; and/or (3) Other Regulatory Reforms.

3.

Performance Metrics

Step 5: Identify possible performance metrics. For those regulatory outcomes best addressed by PIMs, Step 5 of the PBR Design Process continues the transformation of broad regulatory goals, to desired outcomes, and finally to ways of measuring performance. If an outcome describes the topic of regulatory interest, then a metric is the way to measure a utility's performance in achieving that particular outcome. A metric is simply a standard of measurement that can allow regulators to determine how well a utility is performing in an area of interest.¹²⁴ A metric should be quantifiable and verifiable, when possible, as well as consistent with State energy policies.

Metrics are grouped according to the corresponding regulatory outcome. For example, call answer time and customer complaints are traditional performance metrics related to the regulatory outcome of service quality. Similarly, traditional metrics like SAIDI and SAIFI are used to measure performance of

¹²⁴Synapse Handbook at 19.

the desired regulatory outcome of reliability. See Figure 3, above, for a visualization of this concept.

There are numerous performance metrics available to measure more traditional aspects of utility service, like service quality and reliability. Performance metrics related to emerging regulatory outcomes, such as grid modernization, DER, and environmental issues exist, but are still developing in many cases. Notwithstanding their emergent nature, such metrics will likely be important to consider in this docket. Once the difficult task of selecting performance metrics has been completed, the next step is to determine how the metrics will be reported.

B.

Phase 2 - Design and Implementation

Building upon the groundwork laid in Phase 1, Phase 2 of this proceeding will focus on designing and implementing specific modifications to the regulatory framework. This effort will be divided into three tracks: (1) PIMs; (2) Revenue Adjustment Mechanisms; and (3) Other Regulatory Reforms.

Performance Incentive Mechanisms

Establish performance metrics and reporting requirements. Once appropriate metrics are identified, the next step - along the pathway toward PIM development - is to implement reporting requirements for the suite of metrics selected by the commission. This is an important step because it can be used to increase the accountability of utilities, which should also increase the power of metrics in changing a utility's behavior and incentives.

Reporting can be accomplished in traditional docketed filings or, in addition, via a public-facing "scorecard," which a number of other jurisdictions have adopted. "Scorecards with clear metrics and mandated formats approved by regulatory authorities, and designed with broad utility and stakeholder input, may become a hallmark of 21st century power sector regulation."¹²⁵ A successfully designed and implemented scorecard will present information in an accessible, clear, comprehensive, and up-to-date manner.¹²⁶ Scorecards are often presented on a designated website and present both interactive graphs and downloadable data.¹²⁷

¹²⁵Littell et al., Next-Gen PBR Report.

¹²⁶Synapse Handbook at 32.

¹²⁷Synapse Handbook at 32.

A viewer should be able to quickly interpret a utility's performance by utilizing only the information contained on the scorecard.

There are a number of benefits associated with the use of scorecards for reporting. For one, they can help to contextualize recent performance via comparisons to historical performance or by peer benchmarking.¹²⁸ Scorecards can also ease the regulatory burden by compiling performance statistics from a number of various filings made in separate dockets.¹²⁹ Finally, the act of tracking and reporting performance metrics alone can provide utilities with significant performance incentives through the use of transparency as a regulatory tool.

Performance targets, financial incentives, and evaluation. The additional steps outlined in the Design Process for the PIM Pathway correspond to the development of performance targets and financial mechanisms as well as program evaluation. Given the complexity of these topics, each of these steps will be further addressed in Phase 2 of this investigation.

¹²⁸Synapse Handbook at 31.

¹²⁹Synapse Handbook at 31.

Revenue Adjustment Mechanisms

As outlined in the Opening Order, general PBR elements can largely be grouped as either revenue adjustment mechanisms or incentive mechanisms.¹³⁰ Examples of revenue adjustment mechanisms include multi-year rate plans, revenue decoupling, and earnings sharing mechanisms.¹³¹ The commission acknowledges that some identified regulatory outcomes may be best addressed through the utilization of revenue adjustment mechanisms. For such regulatory outcomes, although the identification of associated metrics to track performance may be desirable, in practice, the development of useful metrics may prove impractical or the effort required may prove vastly disproportionate to the attendant value. The commission notes that under these circumstances, it is reasonable and prudent to move from regulatory outcome directly to the development (or refinement) of a revenue adjustment mechanism.

¹³⁰Order No. 35411 at 16-17.

¹³¹Order No. 35411 at 16-17.

Other Regulatory Reforms

The commission observes that certain regulatory outcomes may not be sufficiently addressed by general PBR elements, i.e., revenue adjustment or incentive mechanisms. As indicated in the Opening Order, the commission is open to consideration of additional strategic changes to the regulatory framework, such as: (a) PBR Frameworks to move away from the existing capital investment paradigm (e.g., mechanisms to encourage the pursuit of cost-effective, service-based solutions, including, but not limited to, non-wires alternatives and shared savings mechanisms); and (b) new revenue opportunities to enable a future electric utility platform business model (e.g., provision of new value-added services to customers and third-parties). Such alternative regulatory reforms, if deemed necessary and appropriate, will be taken up in Phase 2 of this proceeding.

V.

PROCEDURAL SCHEDULE

In order to successfully execute upon the PBR Process Design set forth above, the commission outlines the following procedural schedule to govern Phase 1 of this docket.

Procedural Milestone	Date
Technical Workshop #1 - Kickoff / Goals-Outcomes	July 23-24, 2018
Goals-Outcomes Brief	August 24, 2018
Technical Workshop #2 - Regulatory Assessment	September 2018
Regulatory Assessment Brief	October 2018
Technical Workshop #3 - Metrics	November 2018
Metrics Brief	December 2018
Phase 1 Staff Proposal	January 2019
Statements of Position	February 2019
Simultaneous IRs	March 2019
Reply Statements of Position	March 2019
Phase 1 Decision and Order	Subsequent to Reply SOPs

Technical Workshop #1 - Kickoff / Goals-Outcomes
(July 23-24, 2018). Phase 1 will commence with an opening workshop to be held July 23-24, 2018, in Honolulu. The initial technical workshop will be comprised of two main components: (1) foundation to outline common set of PBR concepts and terms; and (2) discussion regarding the appropriate set of regulatory goals and outcomes to

guide PBR development (Technical Workshop #1 maps to Steps 1 and 2 of the PBR Design Process, set forth above).

Prior to Technical Workshop #1, commission staff will propose a set of Hawaii-specific goals and outcomes. This staff report will provide Parties a discrete proposal upon which to provide feedback and will help facilitate a focused discussion around the appropriate set of goals and outcomes.

Goals-Outcomes Brief (August 24, 2018). Parties shall submit a brief, informed by discussion at Technical Workshop #1, articulating specific feedback on the staff report and, where appropriate, proposing alternative regulatory goals and/or outcomes.

Technical Workshop #2 - Regulatory Assessment (September 2018). The second technical workshop will be held in September 2018, in Honolulu, with a primary focus on conducting an evaluation and assessment of the existing regulatory framework (Technical Workshop #2 maps to Step 3 of the PBR Design Process set forth above).

Prior to Technical Workshop #2, commission staff will submit a staff report or pre-workshop material to help guide and facilitate discussion.

Regulatory Assessment Brief (October 2018). Approximately thirty days after Technical Workshop #2, Parties shall submit a brief, informed by discussion at the workshop,

offering a specific, detailed assessment of the current regulatory framework through the lens of the goals-outcomes foundational hierarchy. Said briefs should help identify a distilled list of regulatory outcomes requiring further attention and focus in Step 4 of the PBR Design Process.

Technical Workshop #3 - Metrics (November 2018). The third technical workshop will be held in November 2018, in Honolulu, with a primary focus on: (1) evaluating which regulatory mechanisms are best-suited for addressing the distilled list of focus areas identified in Step 3 of the PBR Design Process; and (2) identifying appropriate performance metrics for the subset of regulatory outcomes best addressed by incentive mechanisms. Technical Workshop #3 maps to Step 4 and Step 5 of the PBR Design Process, set forth above.

Prior to Technical Workshop #3, commission staff will submit a staff report or pre-workshop material to help guide and facilitate discussion.

Metrics Brief (December 2018). Approximately thirty days after Technical Workshop #3, Parties shall submit a brief, informed by discussion at the workshop, offering a specific, detailed assessment of: (1) which outcomes, if any, should be addressed by incentive mechanisms; (2) which outcomes, if any, should be addressed by revenue adjustment mechanisms; and (3) which outcomes, if any, should be addressed by other regulatory reforms.

In addition, briefs should identify performance metrics for the subset of regulatory outcomes that are best addressed via incentive mechanisms.

Phase 1 Staff Proposal (January 2018). Upon conclusion of the three-part technical workshop series, commission staff will synthesize the Parties' briefs and submit a Phase 1 Staff Proposal. The Phase 1 Staff Proposal should: (1) establish a goals-outcomes foundational hierarchy; (2) summarize an evaluation of the current regulatory framework and identify a set of regulatory outcomes that warrant further focus; (3) identify which regulatory mechanisms can best achieve each outcome; and (4) identify performance metrics for those outcomes best addressed by incentive mechanisms.

Statements of Position (February 2018). Approximately thirty days after the issuance of the Phase 1 Staff Proposal, Parties shall file a Statement of Position responding to the Phase 1 Staff Proposal and proposing specific alternatives, should any disagreements arise.

Simultaneous Information Requests (March 2018). Parties/Participants will have an opportunity to issue limited information requests as to each other's Statements of Position. The commission will issue further guidance outlining the scope of discovery.

Reply Statements of Position (March 2018). Parties will have an opportunity to submit Reply Statements of Position.

Phase 1 Decision and Order. The commission intends to issue a decision and order to conclude Phase 1 of this proceeding subsequent to the filing of Reply SOPs by the Parties.

VI.

ORDERS

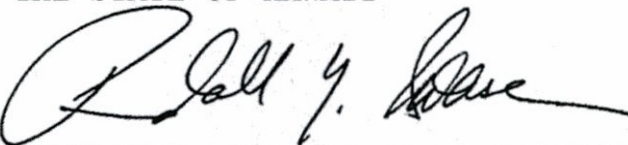
THE COMMISSION ORDERS:

1. The motions to intervene of the City and County; COM; COH; Blue Planet; HPVC; HSEA; LOL; Ulupono; and DERC are granted.
2. The motion for participation without intervention of AEE Institute is granted.
3. The motion to withdraw motion of participation without intervention of CLEAResult is granted.
4. The motion for participation without intervention of Dan Suehiro is denied.
5. The commission establishes the Procedural Schedule, as outlined in Section IV.B. of this Order.
6. On July 23-24, 2018, the commission intends to host Technical Workshop #1, in Honolulu, as set forth in Section IV.B. of this Order.

7. On August 24, 2018, the Parties will submit a Goals-Outcomes Brief, as set forth in Section IV.B. of this Order.

DONE at Honolulu, Hawaii JUN 20 2018.


PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By 
Randall Y. Iwase, Chair

By 
Lorraine H. Akiba, Commissioner

By 
James P. Griffin, Commissioner

APPROVED AS TO FORM:


Matthew T. McDonnell
Commission Counsel

2018-0088.ncm

CERTIFICATE OF SERVICE

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